

BERNARD R. MARONEY)
)
Plaintiff,)
)
vs.) **Case No. 09-cv-324-PMF**
) **(consolidated with 10-cv-961-PMF)**
)
CSX TRANSPORTATION, INC.,)
)
Defendant.)

District Court have discretion to dismiss inefficient duplicative litigation. *Serlin v. Arthur Anderson & Co.*, 3 F.3d 221, 223 (7th Cir. 1993). The Court has evaluated the allegations made in both lawsuits. Because federal pleading rules require only a short statement of the claim for relief, the pleadings are not particularly helpful. The Court has therefore considered the specific evidence presented during the Rule 56 proceedings. The claim for relief based on repetitive trauma injuries to plaintiff's hands and wrists that were known to plaintiff when he filed Case No. 09-324-PMF have been resolved in favor of the defense and will not be relitigated. Those injuries include pain, muscle contracture and other symptoms caused by Dupuytren's disease and CMC arthritis. Because plaintiff specifically alleges that he did not discover the existence of another ailment – bilateral

carpal tunnel syndrome – until results of EMG studies were reviewed in October, 2010, the Court will grant the motions in part. Plaintiff may pursue his repetitive trauma claim to the extent it is based on the symptoms that can be attributed to the recently discovered ailment.

To the extent defendant seeks consolidation or stay, those requests are moot in light of other proceedings. These two cases have been consolidated and the date for trial has been rescheduled.

In sum, defendant's motions to dismiss (Doc. Nos. 7, 22) are GRANTED in part, DENIED in part, and MOOT in part. To the extent plaintiff is seeking to recover for symptoms relating to his Dupuytren's disease and CMC arthritis, the claim duplicates Count 2 and is DISMISSED. Plaintiff may proceed on his repetitive trauma claim only to the extent that his symptoms relate to his recently-discovered carpal tunnel syndrome.

SO ORDERED: April 20, 2011.

S/Philip M. Frazier
PHILIP M. FRAZIER
UNITED STATES MAGISTRATE JUDGE